

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF OREGON

3 MEDFORD DIVISION

4 JENNIFER GAYMAN, )

5 Plaintiff, )

6 v. )

7 CITY OF BROOKINGS; BROOKINGS )

8 POLICE DEPARTMENT; BROOKINGS )

9 POLICE CHIEF KELBY MCCRAE; )

OFFICER RAY MARRINGTON; OFFICER )

10 BRYAN BROSE; OFFICER TOBIAS )

CHITTOCK; OFFICER MITCHELL )

POFAHL; and EVERETT DIAL, )

11 Defendants. )

Case No. 1:20-cv-00440-CL

Thursday, January 6, 2022  
3:00 PM

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16 SETTLEMENT CONFERENCE

17 TRANSCRIPT OF PROCEEDINGS

18 BEFORE THE HONORABLE ANN L. AIKEN

19 UNITED STATES DISTRICT COURT JUDGE  
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TELEPHONIC or VIDEO APPEARANCES

FOR THE PLAINTIFF:

JACOB JOHNSTUN  
Johnstun Injury Law, LLC  
1935 St. Helens Street  
Suite A  
St. Helens, OR 97051

FOR THE DEFENDANTS:

THOMAS F. ARMOSINO  
Frohnmayr Deatherage  
2592 E. Barnett Road  
Medford, OR 97504

COURT REPORTER:

Kendra A. Steppler, RPR  
United States District Courthouse  
District of Oregon  
405 E. 8th Avenue, Room 2130  
Eugene, OR 97401

\* \* \*

1 THE COURTROOM DEPUTY: Now's the time set for Civil  
2 Case No. 20-440, Gayman v. City of Brookings, et al. for  
3 settlement conference.

4 THE COURT: If everyone would introduce themselves  
5 for the record, I'd appreciate it.

6 MR. JOHNSTUN: Jacob Johnstun representing Plaintiff.

7 MS. GAYMAN: Jennifer Gayman.

8 THE COURT: Plaintiff.

9 MR. ARMOSINO: This is Thomas Armosino for the  
10 Defendant. And with me is Mark Williamson from CIS.

11 THE COURT: This matter has been before me for a  
12 settlement conference this afternoon, and the case has been  
13 resolved. And we are going to put the terms of the settlement  
14 on the record. And I guess I would ask, Mr. Armosino, if you  
15 wouldn't mind reciting those terms at this point, and then I'll  
16 confirm that with Mr. Johnstun.

17 MR. ARMOSINO: Okay. That would be fine.

18 For a full resolution of the matter, with a judgment of  
19 dismissal, CIS will pay to Mr. Johnstun and Ms. Gayman a total  
20 sum of \$300,000. We'll need W-9s from each of them. The City  
21 of Brookings will agree to training with respect to ADA. And  
22 Mr. Johnstun and I will attempt to create a press release that  
23 can be jointly sent with the understanding that this is a  
24 resolution about the admission of liability, and that Judge  
25 Aiken will remain as the settlement czar in the event that

1 Mr. Johnstun and I do not agree to appropriate language.

2 THE COURT: And, just to clarify, the press release  
3 would be an acknowledgment of regret of the actions that  
4 happened to the Defendant (sic); correct?

5 MR. ARMOSINO: That's agreeable.

6 THE COURT: Mr. Johnstun, is that your understanding  
7 of the terms that settle this case?

8 MR. JOHNSTUN: It is.

9 THE COURT: Could I ask, on behalf of the City of  
10 Brookings and Ms. Gayman, if you'd both raise your right  
11 hands -- both of you. I'm going to swear you in.  
12 Mr. Williamson?

13 MR. WILLIAMSON: You want me to do it? I can do it.

14 THE COURT: Yeah.

15  
16 J-E-N-N-I-F-E-R G-A-Y-M-A-N,  
17 called as a witness, having been first duly sworn, testified as  
18 follows:

19 THE COURT: Ms. Gayman, you have heard the terms that  
20 settle this case; correct?

21 MS. GAYMAN: Yes.

22 THE COURT: And you have actively participated in the  
23 settlement conference; correct?

24 MS. GAYMAN: Yes.

25 THE COURT: And have you had plenty of time to talk

1 over the terms with your lawyer?

2 MS. GAYMAN: Yes.

3 THE COURT: And you know there will be some language  
4 back and forth between your lawyer and the City of Brookings'  
5 lawyer -- Mr. Armosino -- regarding the language in the press  
6 release. And that if the language is not agreeable, or people  
7 come to a stalemate, that I will retain jurisdiction to be able  
8 to help craft the language for the press release; correct?

9 MS. GAYMAN: Yes.

10 THE COURT: Do you have any questions about the terms  
11 that settle this case either for your lawyer or for me?

12 MS. GAYMAN: I do. It was \$300,000. There's going  
13 to be fees paid, or is it just straight \$300,000?

14 THE COURT: This \$300,000 check will be made to you  
15 and your lawyer. And you have a fee agreement with your lawyer  
16 and some costs I understand. And those will be adjusted, and  
17 you will receive the -- out of the terms of your agreement with  
18 your lawyer -- your award. Maybe Mr. Johnstun will want to add  
19 to that.

20 MS. GAYMAN: Okay.

21 MR. JOHNSTUN: You got it right, Your Honor --  
22 \$300,000 all-inclusive.

23 THE COURT: All right.

24 Any other questions, Ms. Gayman?

25 MS. GAYMAN: No.

1 THE COURT: This is the time for any questions;  
2 correct?

3 MS. GAYMAN: I'm just wondering, if asked, if Officer  
4 Marrington is personally going to be part of the press release.

5 THE COURT: I think they're doing it -- there was no  
6 mention of any individuals for a press release. And this would  
7 be new information that was not conveyed in the settlement  
8 discussions.

9 MS. GAYMAN: That's fine.

10 THE COURT: It will be more generic.

11 MS. GAYMAN: I was just wondering.

12 THE COURT: Yeah. Any other question?

13 MS. GAYMAN: No, that's it.

14 THE COURT: I'm asking you this now. You're under  
15 oath. Is this your agreement?

16 MS. GAYMAN: Yes.

17 THE COURT: And you understand when we shut down the  
18 Zoom and finish today, that your lawyer will have an obligation  
19 to finish the documents and to get this settlement from the  
20 agreement we have on the record now to formal documents. And  
21 if you change your mind, he's going to tell you that you agreed  
22 under oath to this settlement, and he's obligated to finish the  
23 resolution of the documents that effectuate this settlement  
24 that we've just discussed; do you understand that?

25 MS. GAYMAN: Yeah, I'm fine with it.

1 THE COURT: And this is your agreement; correct?

2 MS. GAYMAN: Yes.

3

4 M-A-R-K W-I-L-L-I-A-M-S-O-N,

5 called as a witness, having been first duly sworn, testified as  
6 follows:

7 THE COURT: And on behalf of the City of Brookings,  
8 you have authority to settle this case?

9 MR. WILLIAMSON: I do.

10 THE COURT: And you've had plenty of time to talk it  
11 over with Mr. Armosino?

12 MR. WILLIAMSON: Yes.

13 THE COURT: Any questions regarding the terms that  
14 settle this case?

15 MR. WILLIAMSON: No.

16 THE COURT: Is this your agreement?

17 MR. WILLIAMSON: Yes.

18 THE COURT: And, like Ms. Gayman, you understand, if  
19 you change your mind or you think there's something missing in  
20 the terms, it's too late, this case is resolved, and we will be  
21 all obligated to finish the ministerial duties to get it into  
22 writing and documented; correct?

23 MR. WILLIAMSON: Yes, the case is totally done.

24 THE COURT: Great.

25 I want to thank everybody for their courtesies that they

1 showed the Court and the work that they put in to get us to  
2 this place. Frankly, to be truthful, I thought I would have  
3 been done before now, and it wouldn't have settled. So I'm  
4 immensely grateful that everybody came prepared to talk openly  
5 and honestly. And this was a case that just screamed it needed  
6 to be settled. I'm grateful everybody took the time to come  
7 and listen and put it together today.

8 And I will be happy to -- if I get notice from  
9 Mr. Johnstun or Mr. Armosino -- if you need a conference call  
10 to talk about some language, I would be happy to help. But I'm  
11 pretty confident that -- what we've talked about in both  
12 rooms -- you'll be able to come up with an appropriate press  
13 release that will provide the community with the information  
14 that they need, and that this moves this case forward for  
15 Ms. Gayman.

16 So, with that said, is there something more we need to  
17 touch on? Did I miss anything?

18 MR. JOHNSTUN: Nothing from Plaintiff.

19 MR. ARMOSINO: Thank you for your efforts, Your  
20 Honor. I appreciate that on behalf of Defense.

21 THE COURT: Thanks. Appreciate everybody today.  
22 Everybody be safe, and I hope the weather's better where you  
23 are than it is here. So have --

24 MS. GAYMAN: (Indiscernible).

25 THE COURT: -- a good rest of the day.



1 MS. GAYMAN: I got a white Christmas though, so I'm  
2 good.

3 THE COURT: Good. Excellent. All right. Thank you.

4 MR. JOHNSTUN: Thank you, Your Honor.

5 THE COURT: We're in recess.

6 Thank you, Cathy.

7 MS. GAYMAN: You have a wonderful day.

8 THE COURT: Thank you. You too.

9 MR. JOHNSTUN: Thank you, Cathy.

10 THE COURTROOM DEPUTY: You're welcome.

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12 (The proceedings adjourned at 3:09 PM.)  
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C E R T I F I C A T E

Jennifer Gayman v. City of Brookings, et al.

1:20-cv-00440-CL

Settlement Conference

January 6, 2022

I certify, by signing below, that the foregoing is a true and correct transcript, to the best of my ability, of the telephonic proceedings heard via conference call, taken by stenographic means. Due to the telephonic connection, parties appearing via speakerphone or cell phone or wearing masks due to coronavirus, speakers overlapping when speaking, speakers not identifying themselves before they speak, fast speakers, the speaker's failure to enunciate, and/or other technical difficulties that occur during telephonic proceedings, this certification is limited by the above-mentioned reasons and any technological difficulties of such proceedings occurring over the speakerphone at the United States District Court of Oregon in the above-entitled cause.

A transcript without an original signature, conformed signature, or digitally signed signature is not certified.

/s/Kendra A. Steppler, RPR  
Official Court Reporter

Signature Date: 2/16/2022



<p><b>N</b></p> <p>no... [1] 7/15  No. [1] 3/2  No. 20-440 [1] 3/2  not [5] 4/1 5/6 6/7 10/13 10/21  Nothing [1] 8/18  notice [1] 8/8  now [3] 6/14 6/20 8/3  Now's [1] 2/18</p>	<p>release [7] 3/22 4/2 5/6 5/8 6/4 6/6 8/13  remain [1] 3/25  REPORTER [2] 2/12 10/24  representing [1] 3/6  resolution [3] 3/18 3/24 6/23  resolved [2] 3/13 7/20  respect [1] 3/21  rest [1] 8/25  retain [1] 5/7  right [4] 4/10 5/21 5/23 9/3  Road [1] 2/7  Room [1] 2/13  rooms [1] 8/12  RPR [2] 2/12 10/24</p>	<p>7/20  testified [2] 4/17 7/5  than [1] 8/23  thank [7] 7/25 8/19 9/3 9/4 9/6 9/8 9/9  Thanks [1] 8/21  that [33]  that's [3] 4/5 6/9 6/13  their [1] 7/25  them [1] 3/20  themselves [2] 3/4 10/13  then [1] 3/15  there [3] 5/3 6/5 8/16  there's [2] 5/12 7/19  they [4] 7/25 8/1 8/14 10/13  they're [1] 6/5  think [2] 6/5 7/19  this [26]  THOMAS [2] 2/6 3/9  those [2] 3/15 5/16  though [1] 9/1  thought [1] 8/2  Thursday [1] 1/7  time [5] 3/1 4/25 6/1 7/10 8/6  TOBIAS [1] 1/9  today [3] 6/18 8/7 8/21  together [1] 8/7  too [2] 7/20 9/8  took [1] 8/6  total [1] 3/19  totally [1] 7/23  touch [1] 8/17  training [1] 3/21  transcript [3] 1/17 10/8 10/20  true [1] 10/7  truthful [1] 8/2</p>	<p>when [2] 6/17 10/12  where [1] 8/22  white [1] 9/1  will [15]  Williamson [2] 3/10 4/12  without [1] 10/20  witness [2] 4/17 7/5  wonderful [1] 9/7  wondering [2] 6/3 6/11  work [1] 8/1  would [7] 3/4 3/14 3/17 4/3 6/6 8/2 8/10  wouldn't [2] 3/15 8/3  writing [1] 7/22</p>
<p><b>O</b></p> <p>oath [2] 6/15 6/22  obligated [2] 6/22 7/21  obligation [1] 6/18  occur [1] 10/15  occurring [1] 10/17  OFFICER [5] 1/9 1/9 1/9 1/10 6/3  Official [1] 10/24  Okay [2] 3/17 5/20  openly [1] 8/4  OREGON [3] 1/2 2/13 10/18  original [1] 10/20  other [3] 5/24 6/12 10/14  out [1] 5/17  over [3] 5/1 7/11 10/17  overlapping [1] 10/12</p>	<p><b>S</b></p> <p>safe [1] 8/22  said [1] 8/16  screamed [1] 8/5  sent [1] 3/23  set [1] 3/1  settle [5] 4/7 4/20 5/11 7/8 7/14  settled [2] 8/3 8/6  settlement [11]  showed [1] 8/1  shut [1] 6/17  sic [1] 4/4  signature [4] 10/20 10/21 10/21 10/24  signed [1] 10/21  signing [1] 10/7  so [4] 8/3 8/16 8/23 9/1  some [3] 5/3 5/16 8/10  something [2] 7/19 8/16  speak [1] 10/13  speaker's [1] 10/14  speakerphone [2] 10/11 10/18  speakers [3] 10/12 10/12 10/13  speaking [1] 10/12  St [2] 2/3 2/4  stalemate [1] 5/7  STATES [4] 1/1 1/19 2/12 10/18  stenographic [1] 10/10  Steppler [2] 2/12 10/24  straight [1] 5/13  Street [1] 2/3  such [1] 10/17  Suite [1] 2/4  sum [1] 3/20  swear [1] 4/11  sworn [2] 4/17 7/5</p>	<p><b>U</b></p> <p>under [2] 6/14 6/22  understand [4] 5/16 6/17 6/24 7/18  understanding [2] 3/23 4/6  UNITED [4] 1/1 1/19 2/12 10/18  up [1] 8/12  us [1] 8/1</p>	<p><b>Y</b></p> <p>Yeah [3] 4/14 6/12 6/25  Yes [9] 4/21 4/24 5/2 5/9 6/16 7/2 7/12 7/17 7/23  you [33]  you'd [1] 4/10  you'll [1] 8/12  You're [2] 6/14 9/10  you've [1] 7/10  your [20]</p>
<p><b>P</b></p> <p>paid [1] 5/13  part [1] 6/4  participated [1] 4/22  parties [1] 10/10  pay [1] 3/19  people [1] 5/6  personally [1] 6/4  phone [1] 10/11  place [1] 8/2  Plaintiff [5] 1/5 2/2 3/6 3/8 8/18  plenty [2] 4/25 7/10  PM [2] 1/7 9/12  POFAHL [1] 1/10  point [1] 3/15  POLICE [2] 1/8 1/8  prepared [1] 8/4  press [7] 3/22 4/2 5/5 5/8 6/4 6/6 8/12  pretty [1] 8/11  proceedings [5] 1/17 9/12 10/9 10/15 10/17  provide [1] 8/13  put [3] 3/13 8/1 8/7</p>	<p><b>T</b></p> <p>taken [1] 10/9  talk [4] 4/25 7/10 8/4 8/10  talked [1] 8/11  technical [1] 10/14  technological [1] 10/17  telephonic [4] 1/22 10/9 10/10 10/15  tell [1] 6/21  terms [9] 3/13 3/15 4/7 4/19 5/1 5/10 5/17 7/13</p>	<p><b>V</b></p> <p>via [2] 10/9 10/11  VIDEO [1] 2/1</p> <p><b>W</b></p> <p>W-9s [1] 3/20  W-I-L-L-I-A-M-S-O-N [1] 7/4  want [3] 4/13 5/18 7/25  was [5] 5/12 6/5 6/7 6/11 8/5  we [5] 3/13 6/17 6/20 7/20 8/16  We'll [1] 3/20  We're [1] 9/5  we've [2] 6/24 8/11  wearing [1] 10/11  weather's [1] 8/22  welcome [1] 9/10  what [1] 8/11</p>	<p><b>Z</b></p> <p>Zoom [1] 6/18</p>
<p><b>Q</b></p> <p>question [1] 6/12  questions [4] 5/10 5/24 6/1 7/13</p>			
<p><b>R</b></p> <p>raise [1] 4/10  RAY [1] 1/9  reasons [1] 10/16  receive [1] 5/17  recess [1] 9/5  reciting [1] 3/15  record [3] 3/5 3/14 6/20  regarding [2] 5/5 7/13  regret [1] 4/3</p>			